

Ordinance No.: 17-40
Zoning Text Amendment No.: 13-07
Concerning: US 29 Overlay Zone –
Land Use
Draft No. & Date: 1 – 7/18/13
Introduced: July 30, 2013
Public Hearing: September 10, 2013
Adopted: September 24, 2013
Effective: September 25, 2013

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
MONTGOMERY COUNTY, MARYLAND**

By: Councilmembers Ervin and Floreen

AN AMENDMENT to the Montgomery County Zoning Ordinance to revise the provisions of the US 29/Cherry Hill Road Employment Area Overlay Zone to:

- allow retail sales and services under certain circumstances;
- reflect the changes proposed in ZTA 13-05 to allow for a grocery store in the overlay zone under certain circumstances;
- generally amend the text of the zone to make it more concise, precise, and decisive

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

DIVISION 59-C-18. “OVERLAY ZONES.”
Section 59-C-18.13. “US 29/Cherry Hill Road Employment Area Overlay Zone of the Fairland Master Plan.”

EXPLANATION: ***Boldface** indicates a Heading or a defined term.*

Underlining indicates text that is added to existing law by the original text amendment.

[Single boldface brackets] indicate that text is deleted from existing law by original text amendment.

Double underlining indicates text that is added to the text amendment by amendment.

[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.

** * * indicates existing law unaffected by the text amendment.*

OPINION

Zoning Text Amendment No. 13-07, sponsored by Councilmembers Ervin and Floreen, was introduced on July 30, 2013.

The Montgomery County Planning Board and Planning Staff supported the ZTA with an amendment to clarify that a site plan is not required for retail uses in an existing building, but may be required for the use in a new building.

The Council held a public hearing on September 10, 2013. All testimony favored the approval of ZTA 13-07. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession to review the amendment. On September 9, 2013, the Committee (3-0) recommended approval of ZTA 13-07 to clarify that a site plan is not required for retail uses in an existing building, but may be required for the use in a new building.

The District Council reviewed Zoning Text Amendment No. 13-07 at a worksession held on September 24, 2013, and agreed with the recommendations of the Planning, Housing, and Economic Development Committee; however, the Council changed the effective date to September 25, 2013. The Council recognized that ZTA 13-07 reflects the changes in ZTA 13-05. ZTA 13-05 was approved by the Council during the same Council session as ZTA 13-07.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 13-07 will be approved as amended.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

Sec. 1. DIVISION 59-C-18 is amended as follows:

DIVISION 59-C-18. OVERLAY ZONES.

* * *

Sec. 59-C-18.13. U.S. 29/Cherry Hill Road Employment Area Overlay Zone of the Fairland Master Plan.

* * *

59-C-18.132. Regulations.

(a) Land uses.

(1) The following uses are permitted in the U.S. 29/Cherry Hill Road Employment Area overlay zone:

(A) All permitted and special exception uses allowed in the underlying zones are allowed in the U.S. 29/Cherry Hill Road Employment Area overlay zone, except as specifically modified [[and set forth in]] by this overlay zone.

(i) The following additional retail commercial uses are permitted:

Beauty supply stores.

Computer and computer supply stores.

Electronics stores.

Express or mailing offices.

Food and beverage stores.

Music stores.

Office supply stores.

Pet supply stores.

Retail trades, businesses, and services of a general commercial nature.

Shoe stores.

Theaters, indoor.

* * *

(b) **Development standards.** Development will proceed under the standards of the underlying zones, except as modified by the provisions of this overlay zone.

* * *

(2) **Retail commercial area.**

(A) Where the underlying base zone is not [[other than the]] C-6 [[Zone]]:

- (i) the cumulative square footage of retail commercial uses permitted on land classified in each particular base zone within the boundaries of the overlay zone must [not exceed] be equal to or less than a total of 50,000¹ gross square feet; [[and]]
- (ii) development of retail commercial use cannot exceed 15,000¹ square feet on any individual lot; and
- (iii) [no] except for a grocery store, a single tenant, free-standing structure that devotes 50 percent or more of its gross floor area to a retail commercial use [may exceed a total of] must be equal to or less than 10,000 gross square feet.

(B) Subsection (A) also applies where the underlying base zone is C-6, and when development occurs [pursuant to] under Section 59-C-18.132(b)(6)(B).

¹ Any square footage devoted: (i) to an eating and drinking establishment use, excluding a drive-in, and (ii) where the underlying base zone is I-1, to a grocery store, is in addition to this amount.

(C) Anywhere in the overlay zone, the limitations in Subsection (A) do not apply to the floor area used for retail trades, businesses, and services of a general commercial nature if the footprint of the use is 15,000 square feet or less.

* * *

(d) **Site plan.**

(1) Any retail commercial development in the U.S. 29/Cherry Hill Road Employment Area overlay zone must be approved under the site plan review provisions of Division 59-D-3, except where:

(A) the cumulative redevelopment [does not exceed] is 20 percent or less of the existing gross floor area; or

(B) the floor area is used for retail trades, businesses, and services of a general commercial nature up to a footprint of 15,000 square feet and is located in a building constructed before September 25, 2013.

(2) For uses other than retail, site plan review is required only where it is required in the [underlying] underlying zone.

Sec. 2. Effective date. This ordinance becomes effective one day after the date of Council adoption.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council